APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,659	01/18/2005	Alphons Antonius Maria Lambertus Bruekers	NL 020660	2191

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EXAMINER
SHIU, HO T

ART UNIT	PAPER NUMBER
4152	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/521,659	BRUEKERS, ALPHONS ANTONIUS MARIA LAMBER
	Examiner	Art Unit	
	HO SHIU	4152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on <u>18 January 2005</u>.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-8</u> is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) <u>1-8</u> is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☒ The drawing(s) filed on <u>18 January 2005</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☒ All   b)☐ Some *   c)☐ None of:
        1.☒ Certified copies of the priority documents have been received.
        2.☐ Certified copies of the priority documents have been received in Application No. _____.
        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)
1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date <u>18 January 2005</u>.
4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____ .

DETAILED ACTION

1.   Claims 1-8 are pending in this application.

Claim Rejections - 35 USC § 101

2.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3.   Claim 8 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

4.   With respect to claim 8, "A computer program product" is being recited. A computer program product as recited constitutes only instructions which is software per se. Software is not a machine, process, article of manufacture, or composition of materials. Software is not one of the statutory subject matter. See MPEP § 2106.01

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Patentability shall not be negatived by the manner in which the invention was made.

6.   **Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stent (US Patent # 5,778,359, hereinafter Stent) in view of Samadani et al. (US Patent # 6,995,309 B2, hereinafter Samadani).**

7.   With respect to claim 1, Stent discloses a method of determining whether an encoded signal (4) has been encoded with a particular type of encoder (21), the method comprising the steps of: receiving at least a part of said encoded signal (column 3, lines 9-13); decoding (11) the received signal using a decoder which performs the reverse operation of said particular type of encoder (column 3, lines 25-27); deriving a fingerprint (12) from the decoded signal (column 3, lines 42-48, file record format characteristics).

Stent does not disclose comparing (13) said fingerprint with fingerprints stored in a database (14); and concluding that the encoded signal has been encoded with said particular type of encoder if the derived fingerprint corresponds to one of the fingerprints stored in the database.

In the same field of endeavor, Samadani discloses comparing (13) said fingerprint with fingerprints stored in a database (14) (column 5, lines 22-27, lines 34-38); and concluding that the encoded signal has been encoded with said particular type of encoder if the derived fingerprint corresponds to one of the fingerprints stored in the database (column 5, lines 34-41).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Stent with the teachings of

Samadani in order to accurately identify files without having to proceed through many

false results (Samadani, abstract, lines 1-3).

8.   With respect to claim 2, it is rejected for the same reasons as claim 1 above. In

addition, Samadani discloses wherein said steps are performed by a server (1) which

receives the encoded signal from a client (2) through a network (3) (column 2, lines 28-

32, lines 57-64).

9.   With respect to claim 3, it is rejected for the same reasons as claim 2 above. In

addition, Samadani discloses further comprising the step of awarding (22) the client if

the server concluded that the received encoded signal has been encoded with said

particular type of encoder (column 6, lines 63-67, column 7, line 1).

10.   With respect to claim 4, it is rejected for the same reasons as claim 2 above. In

addition, Samadani discloses wherein said step of awarding comprises retrieving from

the database metadata associated with the signal, and transmitting said metadata to the

client (column 6, lines 63-67, column 7, line 1).

11.   With respect to claim 5, Stent discloses a server station (1) connected to a

network (3) for receiving encoded signals from a client (2), the server station

comprising: a database (14) for storing one or more fingerprints identifying respective

multimedia signals (4) (column 3, lines 42-45); a decoder (11) for decoding an encoded

signal received from said client, the decoder performing the reverse operation of a

particular type of encoder (21) (column 3, lines 25-27); means (12) for deriving a

fingerprint from the decoded signal (column 3, lines 42-48, file record format

characteristics).

Stent does not disclose processing means (13) for comparing said fingerprint

derived from the decoded signal with fingerprints stored in said database, and

concluding that the received encoded signal has been encoded with said particular type

of encoder if the derived fingerprint corresponds to one of the fingerprints stored in the

database.

In the same field of endeavor, Samadani discloses processing means (13) for

comparing said fingerprint derived from the decoded signal with fingerprints stored in

said database (column 5, lines 22-27, lines 34-38), and concluding that the received

encoded signal has been encoded with said particular type of encoder if the derived

fingerprint corresponds to one of the fingerprints stored in the database (column 5, lines

34-41).

Therefore, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to modify the teachings of Stent with the teachings of

Samadani in order to accurately identify files without having to proceed through many

false results (Samadani, abstract, lines 1-3).

12.   With respect to claim 6, it is rejected for the same reasons as claim 5 above. In

addition, Samadani discloses further comprising means for awarding the client if the

server concludes that the received encoded signal has been encoded with said

particular type of encoder (column 6, lines 63-67, column 7, line 1).

13.   With respect to claim 6, it is rejected for the same reasons as claim 5 above. In

addition, Samadani discloses wherein said awarding comprises retrieving from the

database metadata associated with the signal, and transmitting said metadata to the

client (column 6, lines 63-67, column 7, line 1).

14.   With respect to claim 8, Stent discloses a computer program product for

instructing a processor (13) to carry out the method as claimed in any one of claims 1 to

4 (column 3, lines 14-16).

Conclusion

15.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

>   a.   Allamanche et al, US Patent # 7,081,581 B2, a method for characterizing
>
>   a signal which represents an audio content, involves ascertaining a measure for
>
>   the tonality of the signal and sending a statement concerning the audio content of
>
>   the signal on the basis on the signal tonality. The measure for the signal tonality
>
>   is compared to a number of known tonality measurements for a number of known
>
>   signals, which represent different audio contents.

b.   Blum et al., US Patent # 5,918,223, a variety of acoustical features such

as loudness, pitch and bandwidth of a sound file are measured. Mean and

standard deviation of each acoustical feature and of initial derivative of each

acoustical feature are computed to form a feature vector. Feature vector files are

grouped based on similar measurements for files and distance between sound

file vector and reference vector.

c.   Ikezoye et al., US Patent # 6,834,308, method consists in receiving a user

command, periodically or continuously creating a sample of a segment of the

audio or video media content, comparing it with a collection of reference contents

in a lookup server and presenting the data to the client media player.

16.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to HO SHIU whose telephone number is (571)270-3810.

The examiner can normally be reached on Mon-Thur (7:30am - 6:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Nabil El-Hady can be reached on 571-272-3963. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HTS
03/11/2008

/Nabil El-Hady/
Supervisory Patent Examiner, Art Unit 4152